

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SOLENGO CAPITAL ADVISORS ULC,

Plaintiff,

v.

DEALBREAKER, ELIZABETH SPIERS, JOHN  
CARNEY, BESS LEVIN, JOHN DOE AND  
JANE DOE,

Defendants.

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07 Civ. 2657 (DLC) (KNF)  
ECF Case

**DECLARATION OF  
JONATHAN D. COGAN**

JONATHAN D. COGAN, pursuant to 28 U.S.C. § 1746, hereby declares under  
the penalties of perjury that the following statements are true and correct:

1. I am an attorney from the law firm of Kobre & Kim LLP and am admitted  
to practice in the Southern District of New York. In this action, I represent plaintiff Solengo  
Capital Advisors ULC (“Solengo”) and submit this declaration in support of Solengo’s instant  
request for emergency relief against Dealbreaker, Elizabeth Spiers, John Carney, Bess Levin,  
John Doe and Jane Doe (collectively, “DealBreaker” or “Defendants”).

2. Solengo has met any copyright registration requirement that may apply by  
virtue of 17 U.S.C. § 411. Specifically, Solengo has deposited the Document in the Copyright  
Office and paid the registration fee, and the Copyright Office has received plaintiff's application.

A true and correct copy of the receipt received from the Copyright Office is attached to this Declaration as Exhibit A.

3. On March 28, 2007, I was informed that DealBreaker posted on its website an electronic version of a confidential document created by Solengo (the "Document").

4. Later that day, I sent a letter to DealBreaker demanding on behalf of my client that DealBreaker remove the posting from the website on the ground, *inter alia*, that the posting violated copyright laws. A true and correct copy of the letter is attached to this declaration as Exhibit B.

5. The next day, on March 29, 2007, DealBreaker published my letter on a website that it operated along with associated commentary indicating that it refused to comply with our demand to remove the posting of the Document. Attached to this declaration as Exhibit C is a copy of this website posting as of March 29, 2007.

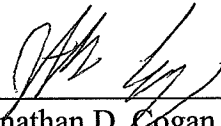
6. In addition, on March 29, 2007, I received a telephone call from Mr. Carney. Mr. Carney indicated on that call that DealBreaker was unwilling to remove its posting of the Document from its website.

7. That evening, Mr. Carney appeared on a television program on CNBC to discuss, *inter alia*, the fact that DealBreaker had posted the Document.

8. On March 30, 2007, our offices called DealBreaker and spoke with Ms. Levin and provided notice that we intended to file for a temporary restraining order later that day, pursuant to Rule 65 of the Federal Rules of Civil Procedure. Also on March 30, 2007, at approximately 3:45 p.m., our offices called DealBreaker and spoke with Mr. Carney, again stating that we intended to file for a temporary restraining order and demanding that the Document be removed from DealBreaker's website. This demand was refused.

9. Shortly thereafter, Dealbreaker posted commentary on its website indicating that it had received notice of Solengo's intention to seek a temporary restraining order and claiming that its use of Solengo's copyrighted materials is somehow protected under the "fair use" doctrine. Attached to this declaration as Exhibit D is a copy of this website posting as of March 30, 2007.

10. I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed the first day of April, 2007, at New York, New York.

  
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Jonathan D. Cogan